



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 502-99
23 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: **FORMER** [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his record be corrected to show that he was discharged from the U.S. Marine Corps Reserve (USMCR) for a reason other than being found not physically qualified for further service, so that he may reenlist in the USMCR.

2. The Board, consisting of Messrs. Bartlett, Ensley and Schultz, reviewed Petitioner's allegations of error and injustice on 19 August 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was placed in a non-pay, temporary not physically qualified status, in 1995 because of knee pain and swelling. He was discharged from the USMCR on 6 January 1997, after being found not physically qualified for retention by the Chief, Bureau of Medicine and Surgery on 8 November 1996, because of chronic patellofemoral pain syndrome, left knee.

d. Petitioner has submitted medical evidence which indicates that he had minimal impairment of the left knee on 8 August 1996, e.g., he was running up to four miles per day

without symptoms. Petitioner disclosed, however, that he had pain with kneeling on his knee, which might last several days. In the opinion of the civilian orthopedic surgeon who examined him on that date, he was fit for full duty. On 13 January 1999, he was found to have a normal right knee, with no symptoms, and that had been able to run up to 16 miles without any swelling of the knee.

CONCLUSION:

Upon review and consideration of all the evidence of record, and the Board concludes that Petitioner's discharge was proper; however, in view of the somewhat equivocal nature of the available medical evidence, and Petitioner's apparent full recovery following his discharge, the Board concludes that it would be in the interest of justice to correct Petitioner's record to show that he was discharged by reason of Secretarial authority, vice by reason of his lack of physical qualification for further service in the USMCR.

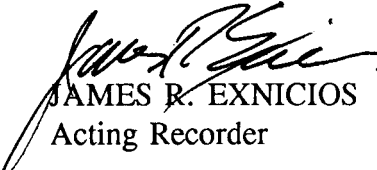
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was discharged from the U.S. Marine Corps Reserve on 6 January 1997 by reason of Secretarial authority.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.


4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director